

Between Hope and Despair



**THE POOR & DEMOCRATIC
DEVELOPMENT IN PAKISTAN**

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**The Poor and Democratic
Development in Pakistan**

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Introduction

What is the relationship between poverty and democracy? How are some sections of society marginalised and excluded from political processes? What is the general situation of democratic institutions in Pakistan and how representative these institutions are? What is the overall situation of institutions of justice in the country and how do these institutions treat common citizens, particularly the poor? These are some of the questions this report tries to explore.

The report is divided into two parts. The first part makes an effort to carry out a broad situation analysis of the functioning of democracy in the country and also explores whether these institutions represent the interests and aspirations of the poor. The first chapter "The Poor and Democracy" shows the limitations of economic definitions of poverty and introduces the reader to debates on the relationship between democracy and development. It also shows how social and political forms of authority are linked and how an alliance between the ruling establishment and the landed aristocracy has thwarted hopes of the poor. Second chapter "Recent Political Developments: The Same Old Story" summarizes recent political events in the country. It narrates a familiar story of a rigged referendum, manipulated parliamentary elections and new distortions in the Constitution. The third chapter "Moving in Circles: Democratic Development and

Civil-Military Relationship" looks at the perennial problem of military dominance over civilian institutions in the country and the way this quasi-democratic system tramples on the will of the people and traps them in poverty. An interesting aspect of the situation is the fact that, when in power, politicians try to create the single party hegemony in an effort to prolong their rule, thus damaging the institutions on which democracy is based. The fourth chapter "Free and Fair: Parliamentary Elections in Pakistan" looks at the less than perfect conduct of elections in the country. The fifth chapter "Struggling for Survival: Political Parties in Pakistan" looks at the problems political parties face in Pakistan and how they have failed in fulfilling their role as instruments of representing popular will and public interest.

The second part of the report analyses the overall situation of access to justice in the country and is divided into two chapters. The sixth chapter "Tilted Scales: Access to Justice in Pakistan" looks at the problems of delivery of justice in the country and the difficulties poor and less influential sections of the society face in accessing the institutions of justice, leading to the common perception that "there is no justice for the poor. The seventh chapter "Waiting for Justice: Poor and the System of Justice in Pakistan" analyzes the causal links between justice and poverty.

The Poor and Democracy

“Although poverty is often defined by income, income is an unreliable way to compare poverty rates over time and across countries.”

Economists define poverty¹ as "the absence of sufficient income to be able to procure the minimum amount of the basic necessities of life." They also define a "poverty line" that identifies basic necessities i.e. food, clothing, education, healthcare, and the like in terms of caloric requirements, and measures the minimum income required per capita per month to fulfil that minimum caloric requirement.

In economic terms, the incidence of poverty in Pakistan is estimated to have increased from 23 percent in 1987-88 to 33 percent in 2001-2002. Rural poverty has risen by 2.3 percent annually from 26 to 35 percent, while urban poverty has grown more rapidly by 3.6 percent annually from 19 to 30 percent over the period of a decade and a half².

Although poverty is often defined by income, income is an unreliable way to compare poverty rates over time and across countries. The incomes of the very poor are difficult to measure and some families with very low incomes have assets they can use during periods of duress.

The most important drawback of focusing on income is that it only measures access to private goods, while the welfare of the poor is determined by their access to both private and public goods. Governments can help the poor by providing public goods like better access to health care and schooling, or

smoother food prices - all without affecting their income. A simple measurement of the private income of the poor, similar to the "poverty headcount" employed by the World Bank, will not capture the ways that governments can help the poor.

The relationship between democracy and development has been long debated by economists and political scientists. Development is a vague term. Although it is generally used to denote the economic status of a country, it also involves social dimensions--infant mortality, literacy rate, life expectancy---and the level of political development that creates mechanisms for change and provides a platform of basic civil and political rights.

In the post world war decades, many American political scientists saw democracy as inimical to economic development. They argued that in poor countries democracy unleashes pressures for immediate consumption, which occurs at the cost of investment, hence of growth. Proponents of this view argued that dictatorships were better able to force savings and launch economic growth.

Samuel P. Huntington has argued that economic development incremental or in decrement has a positive influence on the process of democratization and maintains that when nations reach a given development threshold, as defined

by their GNP, they are highly likely to become democracies. Slow development will result in slow transition to democracy, whereas rapid development creates tensions in a society and often unseats or forces liberalization on authoritarian regimes and hence, leads to broader political participation³.

While economic growth has been successfully achieved under authoritarian regimes in Pakistan, this growth has never enhanced democracy. No clear pattern has emerged showing the relationship between development and democracy. The lack of such a correlation indicates that economic growth without the expansion of civil and political rights is unlikely to lead to democracy in Pakistan.

At the same time, economic growth has failed to produce a strong, large middle class in the country; instead, it has created and strengthened only the elite groups. In fact, economic development has been viewed as a process that is initiated and controlled by state to improve the economy and the state and the elite groups have been the major beneficiaries of this development. Significant foreign interest and interference has culminated in external manipulation of the nation's policies⁴.

Arguments in favour of democracy focus on efficient allocation. They argue that democracies can better allocate the available resources to productive uses. One view is that because authoritarian rulers are not accountable to electorates, they have no incentive

to maximise total output, but only their own rents. As a result, democracies better protect property rights, thus allowing a longer-term perspective to investors. There is also another argument that by permitting free flow of information, democracies improve the quality of economic decisions. The best-known informational argument is based on the Derez and Sen observation that no democracy ever experienced a famine, which they attribute to the alarm role of the press and the opposition.

Amartiya Sen, a leading economist, offers two reasons why democracies seem to have fewer famines than non-democracies. The first is that democracies, through the electoral process, allow the poor to penalize governments that allow famines to occur; and political leaders, acting strategically, must therefore try to avert famines. Sen's second argument is that democracies are better than non-democracies at transmitting information from poor and remote areas to the central government, thanks to freedom of the press; these superior information flows can help prevent famine.

Hence even when democratic and non-democratic leaders are equally devoted to preventing famine, democracies are more likely to be successful. While Sen's arguments are specifically about famines, they have been broadly applied to the problems of the poor in general. More recently, other scholars have developed a third reason why democracies are good for the poor: because they tend to provide more public goods than

““ *While economic growth has been successfully achieved under authoritarian regimes in Pakistan, this growth has never enhanced democracy.*””

“Democratic institutions in Pakistan have suffered both under civilian rulers and military dictatorships.”

4

non-democracies. Since the poor are more likely than the rich to rely on public goods - such as subsidized health care, childhood immunization programs, publicly funded water and sanitation projects, and public schools - this implies that democracies are beneficial for the poor.

The poor in Pakistan have not benefited much from the short periods of democracy we have had. One reason for this is that landed aristocracy, who were later joined by businessmen have dominated politics in Pakistan. These groups are in fact junior partners of the ruling establishment dominated by the military and the bureaucracy. These ruling classes have jealously guarded their class interest, resisting policies that could change the fate of the poor in country.

For example, economists have argued for decades for land reforms in the country. It has been well recognised that asset ownership is an important factor influencing the situation of poverty. According to a World Bank estimate, incidence of poverty among rural landless is at 40.3 percent, while it is 28.9 percent for those who own land. Land is a direct means of livelihood for over three fifths of the rural workforce, and is established as a crucial determinant of reduction in inequality and poverty. However, the distribution of landownership in Pakistan is highly unequal⁵.

This type of landownership has contributed to a particular brand of politics and made some

sections dominant in Pakistan. In a chicken and egg style, the dominance of those sections have exacerbated the situation of landownership and worsened inequality. It is obvious from the fact that numerous land reforms in the country have benefited only about one percent of landless peasants. Successive Governments' lack of seriousness in the initiative can be measured from the fact that out of the land resumed in 1959 some 6 percent still needs to be distributed even after 38 years, and 39 percent of the area resumed under the 1972 reforms is still held by the government⁶.

The social and political forms of authority erected have never met the basic needs or expectations of most citizens. Pakistan has failed to throw off those semi feudal class structures that present serious obstacles to a successful modern state, especially one called upon to exercise functions of welfare and enlightenment for its masses. Not only opposition politicians but large number of their supporters in the electorate believe that governments in power are illegitimate, both for how they get elected and the way they use their powers for personal gain. At the same time, those in office and their followers regularly conceive of their personal opponents as guilty of treasonous acts⁷.

In such a situation, the poor and the marginalized can pin their hopes on the democratic institutions, rather than politicians. Democratic institutions in Pakistan have suffered both under civilian

rulers and military dictatorships. ical crisis, institutional collapse
 On the eve of the fourth military and severe economic problems.
 coup in Pakistan in October 1999, The country's political crisis was
 Pakistan was facing a serious polit- caused by increased ethnic frag-

Table 2: Social Class Background of National Assembly Members

	1985	1988	1990	1993	1997
Landlords and Tribal Leaders	157	156	106	129	126
Businessmen/Industrialists	54	20	38	37	39
Urban Professionals	18	9	46	26	32
Religious Leaders	6	15	11	8	3
Retired Military Officers	-	7	3	5	2
Others	3	-	3	3	2
		207	207	207	207

Source: Dr. Saeed Shafqat

Table2: Composition of Cabinets 1985-1998: Federal Ministries and Ministries of State

	Feudals	Business	Lawyers/ Professionals	Generals	Women	Ulema	Minorities	Unidentified	Total
M.K. Junejo 1985-88	12	3	8	2	1	1	-	-	27
Benazir Bhutto 1988-90	15	1	14	3	4	-	1	6	44
Nawaz Sharif 1990-93	12	9	12	1	-	1	2	2	39
Benazir Bhutto 1993-96	17	3	13	2	1	-	1	2	39
Nawaz Sharif 1997	8	6	8	1	2	-	-	1	26

Source: Several Gazette Notifications. Government of Pakistan, compiled by Dr. Saeed Shafqat

mentation and growth of religious extremism, accompanied by centralization of political power in the hands of the prime minister. The government's assault on already ineffective civilian institutions, in favour of greater control by the executive and military had heightened political dissatisfaction. Dire economic conditions, resulting from both long-term economic mismanagement and imposition of sanctions after nuclear tests in 1998, further accelerated social and political divisions. Continuing adventurism in Afghanistan and Kashmir deeply disturbed regional relations and contributed to growing militarism⁸.

Politicians, in government as well as in opposition, have failed to realize that democracy as a system of governance and interest representation demands respect for

dissent and opposition. It recognises the principle of majority rule and guarantees protection of minorities. Democracy also builds faith in electoral contestation to gain public office and gives legitimacy to political parties as primary instruments for acquisition and transfer of power from one set of individuals to another⁹.

A strong civil and political society is the basis of a healthy democracy¹⁰. Strong societal institutions, including civic associations, religious institutions, a free press, political parties and an independent judiciary, help counterbalance state power, provide a context for developing civic skills, encourage norms of reciprocity and trust, articulate societal interests, and create peaceful channels for the resolution of conflicts that might otherwise result in violence.

“The government's assault on already ineffective civilian institutions, in favour of greater control by the executive and military had heightened political dissatisfaction.”

The Same Old Story

Recent Political Developments

In 1999, Chief of the Army Staff General Pervez Musharraf overthrew the elected civilian government of Prime Minister Nawaz Sharif in a bloodless coup, which was later legitimised by the Supreme Court of Pakistan. The court ordered Musharraf to restore democracy within three years. In 2001, Musharraf assumed presidency by decree and in April 2002 he extended his presidency for five years through an extremely dubious referendum, the official results of which showed a 97.5 percent vote in his favour.

Through a series of executive orders issued from June to August 2002, government effectively barred former premiers Nawaz Sharif and Benazir Bhutto from again holding office. It introduced the condition of a bachelor's degree on all candidates for both the national and provincial assemblies, a move that according to the EU observers denied 96 percent of all voters their right to run for office. The move appeared to be aimed at excluding major opposition figures from the electoral process.

In August 2002, Musharraf introduced 29 sweeping constitutional amendments under the heading of the Legal Framework Order (LFO). The most striking of these measures seeks to institutionalize the military's role in politics by creating a Turkish-style National

Security Council (NSC) through which senior uniformed officers can oversee the civilian government. Another amendment allows the president, acting in conjunction with the NSC, to dismiss an elected government and dissolve the parliament. Presidential powers of appointment have been expanded, as well as the grounds on which individuals can be disqualified from holding a seat in parliament. Legislative seats were increased from 217 to 342 in the lower house and 87 to 100 in the Senate. Non-Muslims and women are guaranteed seats, and the voting age has been dropped from 21 to 18.

Parliamentary elections were held in October 2002. Domestic and international observers found serious flaws in the election framework and tampering with results in certain districts.

The complaints of "pre-poll rigging" also prompted the European Union Election Observation Mission to Pakistan as well as local and international human rights groups to declare the whole electoral process as seriously flawed. Pakistan's intelligence services were active in the elections, preventing both the PML and PPP from effectively organizing themselves¹¹.

Musharraf had banned political activities in the wake of his 1999 coup, and lifted the prohibi-

““ Domestic and international observers found serious flaws in the election framework and tampering with results in certain districts.””

tion on 1 September 2002, less than forty days before polling day. Even then, processions and rallies remained subject to official approval and could only be held in pre-designated places. It was pretty obvious that the military government had planned to install its own favored political faction the PML-Q to the government. However, it was able to secure only 77 seats in a house of 342. This made it the largest single party in the house, but still far short of a majority. Pakistan People's Party (PPP) came in second with 60 seats, though it won the largest share of the popular vote. More notable was the success of the United Action Forum (MMA), an alliance of six Islamist parties, which secured the third-largest seat tally (53) and swept provincial elections in Pashtun dominated North West Frontier Province (NWFP) as well as in predominantly Pushtun-speaking areas of Balochistan. Independent legislators numbered 30.

Soon after elections, government suspended the constitutional ban on floor crossing, to gather enough votes to form a government led by PML-Q. Within a month, several senior PPP leaders agreed to cross the floor to cast "votes of conscience" for the PML-Q and were handed key ministries including interior, defence, and petroleum. In Sindh, where the PPP won the highest number of seats, it was outmanoeuvred from being able to form the government.

Finally the PML was able to form a governing coalition in con-

cert with MQM, smaller parties, and dissident groups from opposition parties. In November 2002, a coalition government led by the PML-Q's Zafarullah Khan Jamali took office with a thin majority. Elections for the Senate were delayed till February 28 allegedly to get time for horse-trading and arm-twisting in favour of a PML-Q victory.

The parliament, however, entered into a deadlock over the issue of the LFO, as the opposition refused to participate in the parliament's proceedings. The deadlock ended after MMA, the alliance of religious parties, agreed to vote for the package of constitutional amendments. To get their support, General Musharraf promised to shed his uniform before the end of 2004.

On December 29, 2003 the Government and the MMA voted in the national and provincial assemblies to incorporate a large part of the LFO into the 1973 Constitution as its 17th Amendment. The amendment affirmed Musharraf's presidency until 2007 and his right to serve concurrently as Chief of Army Staff until the end of 2004. The amendment allows the President to dissolve parliament, but requires him to obtain the consent of the Supreme Court within 30 days after doing so. The amendment transfers a number of powers from the office of the Prime Minister to the President, affirms Musharraf's presidency through 2007, sets the terms under which President could dissolve the National Assembly, and absolves

Musharraf from holding two offices of state until the end of the year, allowing him to remain the Chief of the Army Staff. In October, over opposition protests, Parliament passed another bill that exploits a loophole in the Constitution to extend the exemption until 2007.

Opposition parties rejected the amendment saying that the amended constitution legitimizes the powerful role of the military in politics, and has left a great deal of power in the hands of the president who holds sway over all important democratic institutions.

Even after restoring a substantially changed constitution, Musharraf decided not to seek election under that constitution. Rather, he opted for securing a vote of confidence from the provincial assemblies and the Parliament as a substitute for a contested election in accordance with the Constitution. These actions

make him the third military ruler who has manipulated legal and political institutions to preserve his rule. His LFO package greatly resembles the Eighth Amendment by Zia-ul-Haq in 1985 and the Devolution Plan to the Basic Democracy of Field Marshal Ayub Khan in the 1960s. His Presidential referendum was almost a re-run of Zia's referendum.

In 2001, non-partisan elections for local government assemblies were held in 97 districts. Directly elected union councillors elected district nazims (mayors) and members of district councils. The opposition parties accused the government of intervening to ensure that pro-Musharraf candidates were elected. No wonder, "Pakistan today is at best a hybrid regime,where the principles of civilian rule and constitutionalism are honored far more in the breach than in the observance"¹².

“Pakistan today is at best a hybrid regime,where the principles of civilian rule and constitutionalism are honored far more in the breach than in the observance.”

Moving in Circles

Democratic Development and Civil-Military Relations

“The current hybridised system of government has institutionalised military role in political sphere and ensured military's dominance over civilian institutions of governance.”

At the dawn of the twenty-first century, democracy is at high tide in the world. By the count of Freedom House, the number of democracies in the world (120) and the proportion of states that are democratic (63 percent) are higher than ever before. It is tempting to see this ongoing expansion as indicative of a historic universalizing trend--the global triumph of democracy as a moral imperative and form of government. The current upsurge to democracy started in 1974 and is termed the "third wave" of democratization by political scientist Samuel P. Huntington.

It is unfortunate that at a time when the rest of the world moved confidently towards democratization under the influence of the third wave of democracy, Pakistan has limped behind and gone through two bouts of military dictatorships. Living under a hybrid civil-military rule, the future of democracy in Pakistan remains far from certain. Both military and civilian governments have damaged democratic institutions and norms, state capacity, public services, and civil society.

The constitution of Pakistan spells out the role of the military and defines its functions. Under the direction of federal government the military is required to "defend Pakistan against external

aggression or threat of war, and subject to law, act in aid of civil power when called to do so." According to constitution, any person "who abrogates or attempts or conspires to subvert the constitution by use of force or show of force or by other unconstitutional means shall be guilty of high treason".

Unfortunately, the role of the military has been central in the affairs of the state virtually since the first military coup in 1958. The military and security services influence Pakistan's politics and government even when civilians ostensibly wield power, as was the case between 1988 and 1999. During that time, weak and allegedly corrupt civilian governments alternated in power while the military and its security arm, Inter-Services Intelligence (ISI), set Pakistan's ideological and international agenda. The current hybridised system of government has institutionalised military role in political sphere and ensured military's dominance over civilian institutions of governance.

The military claims supremacy due to its status as guardian of the "nation's geographical and ideological frontier" and custodian of people's interests and welfare. It is on the basis of such sovereign claims that military sacks civilian governments and

interferes in the civilian domain. However, there is a wide perception that the military steps into power to protect its own corporate interests, not necessarily to promote the national interest. "The military has touched every facet of society, ranging from fighting insurrections to fighting locusts, from building roads to removing water logging and salinity, from reading electricity meters to running the cricket board¹³."

The judiciary, citing Hans Kelsen's "doctrine of necessity," upholds military rule¹⁴. People expect the military to set the political house in order and eliminate corruption by acting decisively. During early period of a coup, the military delivers by undertaking high profile arrests and launching key public works. However, it does not take long before the mess surpasses the period of civilian rule.

Zia's rule (1988-1990) was perhaps the worst period of a military rule in the country. His front-line policies toward Afghanistan introduced large scale drug trafficking, "Kalashnikov culture", violent crimes, religious terrorism and brought three million war refugees to Pakistan. This brought anarchy to the large urban centres such as Karachi. His poorly imagined program of "Islamization" stirred sectarian violence between the majority Sunni and the minority Shia sects. As often happens during a military rule, ethnic tensions heightened in the minority provinces of Sindh and Balochistan, which are poorly represented

in the armed forces.

Semi-authoritarianism in Pakistan has consistently benefited from the strategic usefulness of the Pakistani military to the major western powers, notably the United States. American allies have followed Washington's lead in giving Pakistan a pass on issues of democracy and rule of law. General Musharraf's "phased transition to democracy" is the fourth time in Pakistan's short history that a general has pretended to wield arbitrary power only as a transition figure. Unfortunately, these "transitions" cover more than half the country's existence as an independent state¹⁵.

A dominant theme of General Pervez Musharraf's tenure as Pakistan's ruler has been the need for good governance. This is to be achieved both by the process of accountability and the introduction of structural administrative reforms, which will replace the 'sham' parliamentary democracy of the past decade with a grass roots 'real' democracy. What Pakistan has received for these promises is a manipulated and contrived form of democracy and hybridised system of government in which the military calls the shots and a serving Chief of the Army Staff is the President of the country.

Military rule has created a style of governance that is poorly suited to debate, coalition building or bargaining, since these factors are alien to military culture. Under military's gaze, Pakistan has come under the grip of what Mancur Olson called a "dense network of

“Semi-authoritarianism in Pakistan has consistently benefited from the strategic usefulness of the Pakistani military to the major western powers, notably the United States.”

distributional coalitions¹⁶." These coalitions misallocate resources to protect their vested interests. The "small groups" engaged in rent-seeking behaviour include the landed oligarchy, the civil service and religio-political groups¹⁷.

One consequence of this situation has been high spending on defence, moving resources away from the social sector, where it is required the most. Pakistan has kept spending huge amounts on defence even when the situation of poverty deteriorated and a dire need emerged for diverting

Pakistan spends much more than India on its defence. In the current budget (2005-6), Pakistan increased its defence expenditure by more than 15 percent.

According to Stephen P. Cohen, Pakistan's ruling establishment resembles classical oligarchy and its roots lie deep in the psychology of the British Raj¹⁸. The dominance of establishment in the body politic has stunted the development of political institutions. They have sought to create a strong centre, which has clashed with the demands of Pakistan's

Defence Expenditure as % of GDP		
Year	India	Pakistan
1991	2.5	5.8
1992	2.3	6.1
1993	2.4	5.7
1994	2.3	5.3
1995	2.2	5.3
1996	2.1	5.1
1997	2.2	4.9
1998	2.2	4.8
1999	2.3	4.6
2000	2.3	4.4
2001	2.5	4.5

Source: World Bank Indicators (World Bank Data Base: 2003)

resources to creating social security nets. In terms of proportion of GDP allocated to defence, Pakistan is one of the largest spenders on defence in the world. Though it has come down from around 7% of GDP in the late eighties to around 4% more recently, it remains extremely high for a country mired in foreign debt and faced with increasing poverty and serious social problems. In terms of GDP,

multi-ethnic society. The political elite has paid little attention to the development of its population.

"In terms of political socialization and the inculcation of values, the impact of military regimes has led to the promotion of autocratic values, paternalism and personalization of power on the one hand and weakening of democratic norms, values and attitudes on the other¹⁹."

The current quasi democratic system tramples on the will of the people and traps them in poverty in a number of ways. Manipulated elections exclude people from having a say in democratic institutions. Defence and security paradigm reigns supreme while human development is neglected. People's political rights are trampled as they are constantly denied right to free association. Human Rights Commission of Pakistan reported²⁰ that hundreds of political activists linked to opposition parties were detained during the year, usually after staging protests.

*The 2005 Freedom in the World Report*²¹, once again declares Pakistan a "not free" country. In 1994 and 1995 Pakistan was listed as a "partly free" country with a rating of three for political rights and five for civil liberties. In 1996-97 the ratings fell to four and five and the worst was recorded in 1999 when for political

rights Pakistan got a seven ranking. The country has remained, since that time, stuck in that unenviable category. In political rights, the organization has once again rated Pakistan at six and in civil liberties at five.

Transparency International's Corruption Perception Index (CPI) places Pakistan on 15th position in the list of most corrupt countries according to a down - top vertical order. Factually Pakistan appears on 129th position in order of placement starting from top - down position of least corrupt countries out of a total list of 145 in 2004.

As Stephen P. Cohen notes²², the "army lacks the capability to fix Pakistan's problems, but it is unwilling to give other state institutions and the political system the opportunity to learn and grow; its intolerance for the mistakes of others is very low, yet its own performance, when in power, has usually dug the hole deep²³."

“*The current quasi democratic system tramples on the will of the people and traps them in poverty in a number of ways.*”

Free and Fair?

Parliamentary Elections in Pakistan

There is a perception prevalent among citizens as well as seasoned observers that all elections in Pakistan are either rigged or manipulated. People feel that a serious change cannot be brought through elections.

It is impossible to conceive of improving perceptions of the legitimacy of Pakistani institutions and leaders without wide electoral participation. However, large numbers of Pakistanis continue to believe that elections are exercises in intimidation and outright fraud. Moreover, very little of political life is seen as egalitarian. Politics tends to reflect the highly stratified character of social classes in Pakistan where, in general, most citizens see political debates and contests as largely irrelevant to their lives. Pakistan's voting turn out, usually greatly exaggerated in official reports is on the decline.

In April 2002, a referendum was held which was meant to be an exercise to gauge the 'popular mood' with regard to the political and economic reforms of the military government but ended up as a candidate-less election to the office of President. There was no voters' list and anyone could vote anywhere. A record 60 per cent turnout with 98 per cent votes in favour of Musharraf stunned observers and the media, and for good reason. They had seen no evidence of voters outside the

record number of booths that had dotted the landscape of Pakistan. Weeks later Gen. Musharraf acknowledged the 'excesses' by the overzealous bureaucracy and he even apologised to the people in a televised address.

General elections were held in October 2002. The election rules were changed by decree. The campaign period was cut from the customary 90 days to 40. Candidates were required to meet a long list of new requirements. The electoral process was marked by the introduction of a new set of qualification criteria for the nomination of candidates, some of which are not in accordance with international standards²⁴. The ban on candidates with outstanding unpaid government loans was introduced before, and had considerable popular support. Other rules were designed to eliminate "undesirable" candidates, such as the ban on candidates who had served twice as chief minister or prime minister. The qualifications included the requirement for candidates to have graduation degrees, the provision that candidates could be disqualified for outstanding or written-off debts as well as for unpaid utility bills, etc. The graduation requirement deprived some 96% of Pakistan's citizens of the right to run for office. Hence, the requirement results in dilution of the representative nature of the country's

“A record 60 per cent turnout with 98 per cent votes in favour of Musharraf stunned observers and the media, and for good reason.”

democracy. This clearly runs against the spirit of Article 21, Universal Declaration of Human Rights ("Everyone has the right to take part in the government of his country, directly or through freely chosen representatives")²⁵.

In addition to its legal and constitutional machinations, the government was accused of using state resources for partisan electioneering, and threatening opposition and independent candidates with prosecution for corruption if they refuse to switch loyalties. As a result, opposition political parties barely managed to stay in the electoral arena. For instance, the PPP had to rename itself the "PPP-Parliamentarians" to avoid disqualification following a ban on the holding of any party office by Benazir Bhutto. Moderate parties' campaigns also suffered badly from severe restrictions on freedom of expression and assembly - restrictions that were less rigorously enforced and less effective in the case of the Islamist parties.

International observers have raised serious objections to the pre-polling process of 2000 parliamentary elections. During the elections, more than a hundred foreign observers were deployed, including a Commonwealth team of 22 from 18 countries chaired by former Malaysian deputy prime minister Musa Hitam. The Human Rights Commission of Pakistan had fielded over 1,300 field observers, who attempted to monitor the polling in 116 National Assembly constituencies, and closely watched the proceedings at

over 500 polling stations. Both the national and international observers reported serious irregularities in the elections. HRCP raised objections to measures that amounted to pre-poll manipulation of elections and "regretted that not content with its pre-poll manipulation of the electoral process, the administration seemed to have continued to tamper with it during the polling and afterwards"²⁶.

On the eve of the poll the Human Rights Commission of Pakistan listed many ways in which the government had rigged the poll, including creating the PML(Q), directing police and other officials to act in favour of 'chosen candidates' and other devices.

The HRCP also pointed to complaints concerning post-poll arrangements that reinforced suspicions of poll rigging. Results were inordinately delayed, even from major cities like Lahore and Karachi where there was no ostensible cause for delay. Several candidates complained that their result had been overturned through unfair tactics. There were allegations that some presiding officers were asked to fill new vote-count statements. In Sindh polling was stopped at some stations but results from these stations were included in the final count.

The European Union Mission observed that the Pakistan authorities engaged in a course of action that resulted in serious flaws in the electoral process. Additionally, the restoration of democracy in this country is about the transfer of

“Decline in voters' faith in the electoral process is evident from the decreasing voter turnout.”

power from a military to a civilian administration. The powers that have been reserved to the president and the National Security Council raise serious questions as to whether or not this will happen²⁷.

The Chairperson of the Commonwealth team said immediately after polling that there had been several irregularities, and 'allegations of the widespread use of government influence and resources to favour certain parties and candidates' had 'raised doubts as to whether it can be said that the playing field was truly level'.

Three weeks after the elections the Commonwealth Ministerial Action Group (CMAG) met in London and decided that, in the light of the observers' report, Pakistan should remain suspended from the councils of the Commonwealth 'pending greater clarity and an assessment of the role and functioning of democratic institutions'. The Group asked the Secretary-General to continue to monitor the development of democratic processes and institutions in Pakistan. However, later Pakistan was allowed to re-join the Forum.

The Human Rights Watch report stressed that Pakistan's military government had employed a variety of legal and political tactics to control the electoral process, and pointed out that the constitutional amendments virtually gave President Pervez Musharraf unfettered powers over parliament and government. It also noted the revision of electoral pro-

cedures that effectively eliminated the leaders of the two major political parties from participation in the election²⁸.

The National Democratic Institute (NDI) in its report on framework for elections observed that the framework for the October 10 balloting for the National and Provincial Assembly provides for a very limited transfer of power to elected civilian representatives. The principal challenge facing Pakistan's leaders - both military and civilian - in the period following the October 10 polls, therefore, will continue to be developing a genuine and rapid transition from military rule to civilian governance²⁹.

Decline in voters' faith in the electoral process is evident from the decreasing voter turnout. Average vote turnout in the last five elections has been below 45%. In the last general elections voter turnout was 42%. Voter turnout has dropped by 21.6% between the 1970 and October 2002 elections.

Rulers or the Ruled?

Pakistan's Parliament in Spotlight

The parliamentary form of government is based on parliamentary sovereignty and independence of legislature. In such a system, elected representatives perform the dual function of legislation and oversight of the executive. Parliament exercises sovereignty entrusted to it by the people. Perhaps one of the few things on which there is a consensus among Pakistan's ruling elite and educated middle classes is the suitability of the federal parliamentary system in Pakistan.

Political observers have noted that the Legal Framework Order (LFO), promulgated in August 2002, has significantly changed the constitutional and legal framework governing relations between the executive and the legislature. Other legislation which has undermined sovereignty and independence of parliament include the 17th Constitutional Amendment, adopted by the Parliament in December 2003, the enactment of National Security Council Act 2004, the amendment in Political Parties Order, 2002, as well as the Dual Office Bill for the present incumbent of the office of the President.

The revival of the Article 58 (2) B in the Constitution through LFO has again empowered the President with discretionary powers to dissolve the National

Assembly. Likewise, the Governor has also been empowered to dissolve the provincial assembly subject to prior approval of the President. The only limit on use of this power is the requirement to file a reference to the superior judiciary within 15 days of dissolution.

The President has also gained the discretionary powers to appoint the Chairman of the Joint Chiefs of Staff Committee, three service chiefs and provincial Governors. Previously, he was to appoint these officials according to the advice of the Prime Minister, which was binding upon him³⁰.

The LFO also provides for 11 orders and ordinances issued by the military authorities to be part of the sixth schedule, which cannot be amended without the permission of the President. The ordinances include the Qualification to Hold Public Offices Order, 2002, which bars a person from holding the office of prime minister or chief minister more than twice. It applies even in cases where a prime minister or chief minister might not have completed the full term of office³¹.

The Seventeenth Constitutional Amendment also amends Article 41 to provide for the vote of confidence for the President in place of elections between the candidates as has been provided in the Constitution of 1973.

“*Perhaps one of the few things on which there is a consensus among Pakistan's ruling elite and educated middle classes is the suitability of the federal parliamentary system in Pakistan.*”

“It almost gives a license to the military to intervene in the process of political decision-making.”

In April 2004, The National Security Council Bill (NSC) was passed in the parliament in a hasty manner and amid strong protest from the opposition. The bill grants the military an official role in the national affairs. The president will chair NSC which will comprise the prime minister, the Senate Chairman, National Assembly Speaker, leader of the opposition in the National Assembly, the four provincial chief ministers, chairman of Joint Chiefs of Staff Committee and the Chiefs of army, navy and the air force. The NSC's stated role is to serve as a forum of consultation to the president and the government on matters of national security, sovereignty, national integrity, defence of state and crisis management. Critics argue that NSC further empowers the President and is dominated by the mili-

tary. It almost gives a license to the military to intervene in the process of political decision-making.

The LFO has also changed the composition of the National Assembly and the Senate of Pakistan. It has introduced joint electorate for religious minorities and enhanced the seats for women. The composition of the two houses are given in the table below.

The legislative performance of the Parliament in Pakistan has time and again been questioned on various grounds. During 13 years of parliamentary democracy before the last military coup i.e. 1985-1998, the National Assembly not only held fewer sessions, its legislative performance was far from impressive. During the first Benazir Bhutto government, National Assembly met only 11 times. During her second tenure,

Table 1: Composition of the National Assembly

S.No.	Provincial/Regional and Minority Seats	General Seats	Reserved Seats for Women	Reserved Seats for Minorities	Total
1	Punjab	148	35	0	183
2	Sindh	61	14	0	75
3	NWFP	35	08	0	43
4	Balochistan	14	03	0	17
5	Islamabad	02	00	0	12
6	FATA	12	00	0	12
7	Seats Reserved for Minorities			10	10
	Total	272	60	10	242

Table 2: Composition of Senate

S. No	Province/Region	General Seats	Seats Reserved for Technocrats	Seats Reserved for Women	Total
1	Punjab	14	4	4	22
2	Sindh	14	4	4	22
3	NWFP	14	4	4	22
4	Balochistan	14	4	4	22
5	Islamabad	2	1	1	4
6	FATA	8			8
	Total	66	17	17	100

the number of sessions rose to only 31. During Nawaz Sharif's first term, the NA held 17 Sessions. During his 2nd term, 20 sessions were held. Duration of these sessions was also remarkably short.

In the last two legislative years, the Senate and the National Assembly fulfilled its constitutional requirement of meeting for 90 and 130 days respectively. The procedure for calculating working days as laid down in the Constitution counts the adjournment period up to two days as working days. If non-working days are excluded, the National Assembly met for 65 days during the first parliamentary year and 90 days for second parliamentary year³².

In the first legislative year, the Parliament passed only two bills. One of them was the Finance Bill, 2003-04. In the second legislative year, the parliament passed 17 bills as shown in table 5. In comparison, the House of Commons has passed 47 bills per year

on average from 1995 to 2003, whereas the Lok Sabha has passed on average 50 bills per year from 1995 to 2002³³.

The opposition parties, as well as the civil society organizations have consistently pointed out that the government and the ruling party do not seem to be taking the parliament seriously. This is evident from frequent problem of quorum and absence of ministers from the two houses. The lack of quorum has been a nagging problem leading to disruption in the proceedings of the house, particularly the National Assembly. Similarly, there have been periodic complaints about the absence of Cabinet members in the National Assembly Sessions. There have been instances when opposition parties walked out of the National Assembly to protest against the absence of Ministers³⁴.

It is evident from the above facts that the National Assembly has not been able to develop into a forum, which may inform, educate

“In the first legislative year, the Parliament passed only two bills.”

“*the National Assembly has not been able to develop into a forum, which may inform, educate and reflect the opinion of citizens or representative interest groups.*”

and reflect the opinion of citizens or representative interest groups. Parliamentarians have made little effort to develop consensus on important legislation. The parliamentarians and political parties have not been able to bring diverse and divergent interests and issues for debate and resolution in the NA. Therefore, extra-parliamentary tactics continue to dominate Pakistani politics. Major national issues are debated and managed outside the parliament (over the years, no meaningful discussion on Kashmir, sectarian problem or India's nuclear explosion etc. has taken place in the NA). Thus, NA has not been able to develop as an institution that could promote and strengthen democratic norms and practices. If parliamentary democracy has to succeed, regular sessions of the assembly, greater debate, and more legislative work needs to be created to enhance the capacity of the NA.

The parliament has played an insignificant role in overseeing the implementation of laws it has passed. The committee system of Pakistan's parliament remains weak and the procedures for the parliament to play its oversight role are not very strong. As a result, the laws passed by country's legislature are not implemented in a uniform manner. While administration is quick in implementing the laws it deems important, it could drag its feet over implementing what is considers "less significant" legislation. As a result, while legislation related to foreign policy, defence as well as law and

order is implemented well in time, social legislation has to wait for years before it is implemented.

Protection of Breastfeeding and Child Nutrition Ordinance 2002 is one such example. It is an important law aiming at saving the lives of millions of infants whose families face unethical and predatory marketing from multinational companies. Even after three years of the passage of law, no guidelines have been prepared for its implementation. Prohibition of Smoking in Enclosed Places and Protection of Non-Smokers Health Ordinance 2002 is another example. Aimed at saving non-smokers and general public from hazards of passive smoking, the law has been turned into a toothless instrument due to half hearted framing of the rules.

Struggling for Survival

Political Parties

A political party is a group of citizens organized to seek and exercise power within a political system. Parties are the vehicles by which citizens come together freely to campaign for public office to win a majority of seats in a legislative body, to express their interests and needs, as well as their aspirations for the society in which they live³⁵.

In the Pakistani context, parties have rarely performed their functions very well³⁶. According to Wali Reza Nasr, a well known political scientist, the initial weakness of the democratic movement, absence of strong parties and political programs, politics of personalities and decline in the quality of leaders and their policy choices, mismanagement of government resources and functions, and corruption in, as well as of political process have all combined to erode government authority³⁷.

Long interruptions through military governments have not let the political parties develop into strong political institutions. In order to get legitimacy through stage-managed elections and manipulated democracy, military rulers have tried to manipulate political parties and midwife political alliances. The fact that a section of politicians is always ready to join forces with the military rulers has resulted in widespread cynicism about politics in Pakistan.

Some scholars have observed³⁸ that the main problem in Pakistan is the absence of democratic dispensation resulting in the denial of space to political parties to function, both in office and as opposition. It has been argued that since except for one government (People Party 1971-1977) all civilian governments were dismissed prematurely, political parties have not been able to learn the art of governance. Political parties, as a result, have mostly operated out of power, as an oppositional force in an anti-system framework, and often under highly repressive conditions³⁹.

The parties, on their part, are not free from internal contradictions. The party structure has been dominated by powerful political families. According to Saeed Shafqat⁴⁰, a renowned political scientist and scholar, Pakistan's political development shows two contradictory tendencies. While military tries to establish a political system based on its hegemony, politicians, when in power, try to put in place a political system based on dominance of a single ruling party. These two systems have stalled democratic development in the country.

The dominant political party system is one in which the ruling party enjoys a dominant position. Origins of the dominant political party system lie in the early post-independence period when Liaquat

““ *The fact that a section of politicians is always ready to join forces with the military rulers has resulted in widespread cynicism about politics in Pakistan.* ””

“*Rather than fulfilling their roles as instrument of interest representation and popular will, the political parties play the role of instruments of patronage and mass mobilisation.*”

Ali Khan, the first Prime Minister of Pakistan, tried to make the Muslim League a dominant party. His successors also tried to do the same but they failed due to their lack of will and capacity. They were also pre-empted by the military and bureaucracy who had become very powerful.

When Pakistan Peoples Party came to power in 1972, an experiment was made once again to set up the dominant political party system. Probably, Zulfikar Ali Bhutto wanted to replicate India's model where the Indian National Congress had emerged as the dominant political party. However, he ignored the fact that Congress had won such a position as a result of regularized elections, a practice which was conspicuous by its absence in Pakistan.

A similar effort was made by the successive governments of Pakistan Muslim League and Pakistan People's Party in the period 1985-1999. Both parties tried to marginalize the opposition and set up the hegemony of their own party on permanent grounds. Shafiqat notes that many politicians advocate democracy in theory but try to set up dominant political party system in reality. This seriously retards the development of democratic institutions in the country.

Rather than fulfilling their roles as instrument of interest representation and popular will, the political parties play the role of instruments of patronage and mass mobilisation. The fact that the political parties have a long history

of engagement with military rulers, their orientation is geared towards mass mobilisation and politics of agitation. Not surprisingly, political parties in Pakistan are much less equipped to perform legislative functions in the parliament. Political parties are faced with the challenge to keep their street nuisance value to wrest democratic concessions from military rulers. The challenge to transform instruments of mass mobilisation to interest representation and advocacy in the parliament comes whenever democracy is revived in the country.

The Political Parties Order 2002 and Political Parties Rules 2002 have made it mandatory for the political parties to seek formal registration with the Election Commission of Pakistan. Subsequently about 129 mainstream and fringe political parties submitted their documents seeking their registration out of which only 71 finally qualified as the full-fledged parties. Out of these, seventeen are with religious orientation, eight with ethnic and six with regional tags. The registration statistics also show that at least four major political parties have more than one faction⁴¹.

Most political parties have hereditary or lifelong leaders. Though many parties now go through the ritual of intra-party elections due to the legal requirement, majority of them keep the old leadership by electing them "unopposed". Despite tall claims about the membership base and importance of members in the

decision making process, most parties do not have a formal process of membership and do not retain any membership registers. Members normally do not have much say in running the party either.

The funding of political parties in Pakistan remains an enigma, an issue political parties remain reluctant to discuss. Political parties do not have access to any public funding in Pakistan and their income from membership fees is nominal. Large political parties exist by selling party tickets during elections, while many parties are accused of receiving funding from intelligence agencies and foreign sources. In 1994, a former director general of Inter Services Intelligence (ISI) admitted that the agency distributed 140 million rupees to its favourite politicians during the 1990 elections.

A serious gap in Pakistan's political culture is the lack of elite-consensus, without which democracy cannot function in any country. Though the political parties have been engaged in an impressive struggle for the restoration of democracy, they have failed to build a legal framework, create a pro-democracy environment, and most importantly, develop a policy framework in which conflicts may be resolved through negotiations, by making bargains, and by building consensus.

Upon assuming power, political parties have pursued or adopted policies that strengthened authoritarian attitudes rather than promote democratic norms, flout rule of law and defy tolerance of any

political opposition. As a result of these tendencies, there is a growing scepticism about the sustainability of democracy. The disappointment is not with democracy as a form of government but with the conduct and behaviour of parliamentarians and political parties who are expected to make democracy work⁴².

An important causality, during the last decade and a half of political development is the erosion of the dedicated corps of political workers, who used to work for their party, campaigning, raising funds, organizing supporters and advocating the party's agenda. Most notable of the lot were workers of Pakistan People's Party, commonly termed as Jialas. As many workers of the political parties belonged to the working classes, the decision makers in the party had no option but to pay attention to their concerns. Many such workers also used to rise to decision-making positions in the party. The absence of such workers have created a gulf between the party's high ups and the poor segments of the society.

The workers have been replaced by a media advisor, who portrays the programme, image and slogans of the party through electronic and print media. The party worker has been replaced by the image-builder for the party and its leaders. There is a growing tendency among the top ranking party leadership to fax statements to newspapers rather than focus on building the grass root organisation of the party⁴³.

A growing body of evidence is

“*The disappointment is not with democracy as a form of government but with the conduct and behaviour of parliamentarians and political parties who are expected to make democracy work.*”

showing the linkages between empowerment and good governance and growth that is more pro-poor. Political parties can play a decisive role in this regard by creating demand for good governance and pro-poor growth when in opposition and delivering good governance when in government. The political parties particularly help alleviate poverty and empower the poor by focusing their agendas on the following

points:

- Access to basic services
- Improved local governance
- Improved national governance
- Pro-poor market development
- Access to justice and legal aid.

However, these goals will be difficult to achieve unless the poor themselves become politically active and use political parties as an "organizational weapon".

Tilted Scales:

Access to Justice in Pakistan

At the heart of the modern nation-state is the idea of a "social contract" between citizens and the state that binds both parties to the rule of law. In this context, the constitution can be seen as codification of the social contract and an instrument that binds citizens with the state and establishes the rule of law. Access to justice is, therefore, pivotal to the content of citizenship⁴⁴.

Providing an effective system of justice for its citizens is a core function of a government. However, many governments, particularly in the developing countries fail to deliver on the basic services of protecting physical safety, securing personal property and settling disputes quickly and fairly. Recent studies have highlighted the fact that for poor people, access to justice may be as important as access to healthcare or education.

Pakistan's 1973 Constitution envisaged a parliamentary democracy with legal protections for civil liberties and against arbitrary arrest, detention without trial, and torture. Article 25 (1) of the Constitution of Pakistan declares, "All citizens are equal before law and are entitled to equal protection of law." Under Article 37 (d) of the Constitution of Pakistan, the provision of inexpensive and expeditious justice is a state obligation.

Constitutional guarantees

notwithstanding, the poor and the less influential sections of society face serious problems in accessing the institutions of justice. The common perception is that "there is no justice for the poor." It is reflective of the fact that influential, rich and resourceful can buy justice and deprive the poor of their property as well as their socio-political and legal rights⁴⁵. In fact, "Government authority in the public perception has become identified with coercion and patronage and not justice⁴⁶."

Poor delivery of justice forms the largest hurdle in accessing justice. Common causes cited for the problem include corruption, poor management and low levels of capacity, not only among the police and judges, but also among prosecutors, court administrators, private lawyers and prison staff. Over the last five decades the justice sector has largely remained under-funded and vulnerable to political manipulation. What is worse, due to ideological battles, the system remains stuck between vestiges of 19th Century British colonial legislation and Islamic laws of a military dictator.

The problems of delivery of justice are continuously getting worse in Pakistan. There are severe backlogs at both trial and appellate levels. In 2004, according to an admission of the Chief Justice of

“Recent studies have highlighted the fact that for poor people, access to justice may be as important as access to healthcare or education.”

the Supreme Court of Pakistan, the number of pending cases before the Supreme Court jumped from 19,000 to 25,000⁴⁷. The situation at the level of subordinate courts is not any better either. For example, as many as 3,461 cases are presently pending with District and Session Judge, Rawalpindi, and Additional and District Judges⁴⁸.

The Judiciary in Pakistan is faced with a serious crisis of legitimacy. Many observers and political activists feel that Pakistan does not have an independent judiciary. One serious issue is the way judges are elevated to the bench of the superior courts. They are appointed by the executive on recommendations from the Ministry of Law, without any checks or balances. The superior judiciary, including the Supreme Court and the provincial high courts, has sometimes been reshuffled arbitrarily so that the courts do not rule against the existing executive in constitutional matters, especially under military rule⁴⁹.

In 2004, long delays were made in filling the vacancies of the Supreme Court of Pakistan, and later the government filled them in a way that raised doubts about the establishment's respect for the independence of the judiciary⁵⁰. The vacancies were created due to the 17th Amendment of the Constitution at the beginning of the year. The Chief Justice recommended elevation of the Chief Justices of Lahore and Peshawar High Courts and the senior most judge of the Lahore High Court. How-

ever, the President decided in July 2004 to let the LHC Chief Justice continue in his office and elevated another judge of the LHC. This action of the government came under strong criticism from the Bar and the Supreme Court Bar Association described it as a fraud. This politicised nature of judicial promotions has enhanced government control over the judicial system.

In 1993, the performance of the Lahore High Court (LHC) came under serious scrutiny as the apex court of Pakistan's largest province validated the President in uniform, upheld the transparency of his discredited referendum as well as most of the steps of the military government that were challenged at the court. The court also appeared to be soft on parliamentarians of the ruling alliance, who were faced with election petitions. These politicians included federal and provincial ministers including the Foreign Minister Khursheed Mahmood Kasuri. In all, 69 election petitions were moved, mostly against parliamentarians belonging to the governing party as well as the federal and provincial ministers, mostly accusing them of contesting polls with bogus graduation degrees to meet the mandatory condition of graduation for participating in the elections. The court, either dismissed these petitions on the ground of non-maintainability or kept them pending⁵¹.

The misery of the higher judiciary also came to light in the same year when government, as a

result of its deal with the religious-political alliance, Muttahida Majlis-i-Amal (MMA), withdrew the three years extension granted to the judges of the Supreme Court and the High Courts under the Legal Framework Order (LFO).

Dysfunction in the superior judiciary also impedes reform in the subordinate judiciary, which comprises the trial courts in which the mass of ordinary judicial business is transacted. Appalling under-resourcing and endemic corruption in the subordinate judiciary lead to agonizing delays in the simplest cases and diminish public confidence in the judiciary and the rule of law⁵².

With the regular judiciary failing in dispensing justice to the satisfaction of people, Pakistan has fiddled with a variety of parallel judiciary in the form of Federal Shariat Court, the Martial Law Courts (not operative at the moment), Military Courts and Special Anti-Terrorist Courts, set up at the higher and the subordinate level on the basis of their relevant jurisdiction.

The Anti Terrorist Act allows the government to use special courts to try violent crimes, terrorist activities, acts or speech designed to foment religious hatred, and crimes against the state. Anti Terrorist Courts are required to decide cases within seven working days. The judges, however, can extend the period if required. The superior courts can hear appeals against verdicts from these courts. The functioning of these courts has come under strong

criticism from the human rights organizations which hold that they are vulnerable to political manipulation.

Perhaps the most controversial brand of parallel courts at the moment are the Special Accountability courts, formed to try corruption cases, including default on bank loans, brought by National Accountability Bureau (NAB). These courts are expected to try cases brought before them within thirty days. While normal courts in Pakistan provide for presumption of innocence, there is a presumption of guilt in Accountability Courts. These courts, alongside NAB itself, have been used to target opposition politicians and force them to change their political loyalties. A number of leading politicians who crossed the floor before or soon after the 2002 election and joined the ruling coalition were under trial at these courts. After allying themselves with the government, cases against them were killed in these courts. Interestingly, NAB has not prosecuted any serving member of the army or judiciary. NAB claims that it can not move against the members of the armed forces because the Constitution excludes them from the definition of the holders of public office and it can not act against any member of the judiciary as a Supreme Court judgment on the NAB Ordinance has held that the accountability of the judiciary cannot be given to the executive since it would breach the principle of the independence of the judiciary⁵³.

“Appalling under-resourcing and endemic corruption in the subordinate judiciary lead to agonizing delays in the simplest cases and diminish public confidence in the judiciary and the rule of law.”

“Police laws in Pakistan are a legacy of the British Raj and largely remain in place even after one and a half century of promulgation.”

While the issue of parallel judiciary has created serious tensions between the executive and the superior judiciary on the one hand and between the government and the opposition on the other, they have failed to cut back delays--the major stated objective for their creation.

It can be mentioned here that an Access to Justice Programme, launched in 2002, is underway to strengthen the capacity of the institutions of justice namely superior and subordinate courts, Federal Law and Justice Ministry, Provincial Law Departments, Pakistan Law Commission, Federal Judicial Academy, Federal/Provincial Police Departments, Federal, Provincial and District Public Safety Commissions, Federal, Provincial and District Ombudsmen and Bar Councils/Bar Associations, etc. The Programme also envisages the reformation and modernisation of civil and criminal laws, delay reduction strategy for courts and raising the quality of legal profession and legal education. The Asian Development Bank has extended a loan of US \$ 350 million for the programme.

Police-Long arm of the state

Police laws in Pakistan are a legacy of the British Raj and largely remain in place even after one and a half century of promulgation. Since these laws serve as a powerful tool for guarding the interests of the ruling establishment and the political elite, there has been a strong resistance to changing them. The Police Act

1861 is often blamed for the police being too powerful in the country. The police in Pakistan faces widespread accusations of inefficiency, corruption, harassment and deliberate non-registration of cases. The poor are the most likely victims of police abuses.

The police is blamed for organising extrajudicial killings; both criminals and innocent citizens are murdered in fake police encounters. According to HRCP⁵⁴, Punjab police reported 135 encounters during the first nine months of 2004, in which 105 suspects were killed. Karachi city police reported the killing of 57 criminals during the same period. Though the government investigated police officials for extrajudicial killings in many cases, there was an obvious failure on its part to discipline and prosecute the culprits.

Many people also die due to torture in custody. There is an alarming regularity in the incidence of casualties in custody. Detainees are tortured to get confessions. Under provisions of Anti-Terrorist Act, such confessions are admissible in Special Courts. The methods used include beating, burning with cigarettes, whipping with specially prepared whips, prolonged isolation, electric shocks and hanging upside down. HRCP estimates 5,000 cases of police torture annually. At times, police torture can result in serious injury or even death and such murders are never prosecuted seriously.

Another serious public griev-

ance against the police is the practice of illegal detention. Innocent people, without any regard for age or sex, are detained unlawfully either on suspicion or merely to extort money from their relatives. Punjab police is particularly notorious in this regard. Human Rights organizations in Pakistan documented 1,458 cases of illegal detention during 2004.

Police routinely ignore the legal requirement of court issued search warrants. Accusations of theft, harassment and even sexual assault have resulted from Police' illegal entry into citizen's private property. In cases related to terrorism, however, Police is allowed to search and seize property without a warrant. It is not uncommon for the police to use this legal loophole to violate citizens' privacy and harass them to extort money.

The issue of police accountability is a point of concern in Pakistan, given the excessive powers and discretion in the hands of police officers. Effective accountability is needed to transform Police behaviour, based on deep rooted culture of repression, into a service oriented role and promote mutual confidence between Police and the public. The success of the Police requires public cooperation and support, which is not possible without credibility and faith in the police accountability system-that is still lacking in Pakistan⁵⁵.

The Mirage of Police Reforms

The devolution plan of the local government promised to replace the structure of police

administration with a new arrangement. As a result, a new police law was enforced on 14th August, 2002. The new law recognizes the role of civil society in overseeing police functioning and tries to achieve this objective through a system of public safety commissions at the district, provincial and national levels.

The implementation process of the Police Order 2002 has remained halted due to mounting pressure from the provinces who feel that the new law is against the principle of provincial autonomy. Provinces have objected to the fact that the Police Order has been included in the sixth schedule of the Constitution, thus turning law and order into a federal subject. This effectively robs the provinces of the authority to amend the Police Order as any change in the sixth schedule of the Constitution requires assent of the chief executive of the country. However, some observers feel that real motive behind the provinces' reservations is the fact that this law enhances the role of Zila Nazim in police superintendence and limits the role of the authorities based at provincial headquarters through supervising bodies⁵⁶.

In 2004, the federal government amended the legislation to provide for inclusion of legislators in public safety commissions; requirement of chief minister's approval for posting district police officers; meeting of public safety commissions with complaint authorities; and presentation of a panel of three police officers to

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provinces for the position of provincial police officer by the federal government and not by the national public safety commission.

Many vocal sections of civil society feel that these amendments would badly affect the working of the police department, as they will politicise the Police and the institution will continue to be used for political gains and purposes. They feel that these changes have deformed the spirit of the original Police Order 2002 and restored the old system of police⁵⁷.

The Police Order 2002 aims to establish a politically neutral professional police service by establishing public oversight institutions and putting in place checks and balances that guarantee operational autonomy to the police. The Centre for Peace and Development Initiatives (CPDI), an NGO, has prepared a list of failures on part of the Punjab government, Pakistan's largest province with most serious police abuses, in the context of implementing Police Order 2002.

- District Public Safety Commissions (now renamed as District Public Safety and Police Complaints Commissions) are yet to be constituted in at least two districts in the Punjab including Lahore. Where such Commissions have been established, they are generally under-resourced and do not receive adequate cooperation from the police officials.
- Provincial Public Safety Commissions (now renamed as

Provincial Public Safety and Police Complaints Commission) is yet to be constituted. It may be understood that District Commissions cannot be effective in the absence of Provincial Commission, as the District Commissions are supposed to file complaints to the Provincial Commission in situations where their recommendations are not respected by the police officials in the district.

- Under the Police Order 2002, the Punjab Police was supposed to develop a Provincial Annual Policing Plan. Such a plan has never been prepared, although it could be very useful for well-planned allocation of resources as well as monitoring and evaluation purposes.
- Police Order 2002 provides a 3 years security of tenure to police officers. However, in practice, hardly any police officer has benefited from this, as the government frequently transfers them on political considerations. Punjab Government has failed to implement this even in Lahore where 3 Capital City Police Officers (CCPOs) have served during the last 3 years.
- Under the Police Order 2002, Punjab Police was supposed to develop and implement a Code of Conduct to regulate police practices. So far, there is no evidence that the Police Department in Punjab has even begun to work on this,

although it could greatly help in addressing citizens' concerns related to police behaviour and attitudes. It, however, does not seem to be a priority area for Punjab Police or Punjab Government.

- Police Order 2002 envisages establishment of Public Safety Fund at the provincial and districts level. It has not been created yet at any of these levels.

In the meantime, the police is operating without any institutional checks, resulting in extreme inconvenience for citizens.

Waiting for Justice

Poor and the System of Justice in Pakistan

““ Their contact with the justice system is often as victims of crime, or as targets of harassment or corruption.””

Recent studies of poverty, including the World Bank's 'Voices of the Poor', have emphasised that poverty is not just a lack of income. UNDP and most of the development community also view poverty alleviation more broadly, however, often using the term "human poverty" and reflecting the fact that the poor "often define their own lot not so much in terms of 'lack of money' as an absence of empowerment⁵⁸." Poverty, for them, is the experience of various forms of vulnerability, including exposure to violence and unlawful activities. Services such as access and fair dispensation of justice provide institutional assets that the poor need. Low-income families without access to effective justice systems suffer from four types of justice-related impoverishment:

- The justice system fails to fulfil its stated objectives of protecting people from theft, violence and official abuse or to enforce legitimate entitlements and legal rights (e.g. to wages or inheritance).
- The prevalence of police extortion, unjust imprisonment and courtroom bribery may inflict further costs: the justice system may seem like 'organised theft'.
- Living in a state of lawlessness

undermines confidence, deters investment and contributes to costly risk-avoiding behaviour within a culture of fear.

- Vulnerable households may use scarce disposable income for self-protection (e.g. bribes and weapons) to shield themselves from both state and private plundering.

Poor people have limited access to courts and minimal police protection. Their contact with the justice system is often as victims of crime, or as targets of harassment or corruption. The idea that the justice system is available to support citizen's legal rights, settle their disputes and safeguard them may be present in theory, but hardly realised in practice. Both the supply of justice services and the ability of the poor to access them need urgent attention.

The causal link between inadequate justice services and poverty has only recently come onto the development research agenda. Previously, development concerns with justice tended to focus on the correlation between the 'rule of law' and economic growth, with particular attention to the rights of investors to protect property and enforce contracts.

Stephen Golub's recent research has highlighted the

importance of legal empowerment and poverty alleviation in the Asian region. His analysis suggests that legal empowerment involves multiple actors and institutions, so that the emphasis lawyers place on courts and codes may be misplaced⁵⁹.

Research carried out by Foqia Sadique Khan⁶⁰ shows how the poor in Pakistan are excluded from the system of justice. Her work shows that poor households generally find it difficult to access the formal justice system because of the prohibitive costs associated with litigation and the power of the influential to buy justice through money or social contacts. Poor people residing in villages often do not even approach the formal legal system. i.e. Police, courts and the district bureaucracy. They view the police and courts and their delaying tactics as means to generate bribes and as a luxury for the rich. These institutions are perceived as partial in favouring the influential. Hence, they prefer to have their disputes resolved through the informal system rather than approach the formal legal system, which they are often also forced to abandon due to the high costs involved. The poor are discriminated against in property cases and poor litigants also face a longer wait when suspected of having been involved in some petty crime.

The poor avoid involving the police in their disputes and reporting crimes, since it usually results in harassment and abuse, which naturally works in favour of the rich who have more resources for

bribing. The poor also tend to avoid courts, particularly against the influential, given the prohibitive cost of litigation. The police use several laws, including those dealing with Ehteram-e-Ramazan (sanctity of the month of fasting), price control, guns and drug abuse, to harass the less influential. The police often refuse to register FIRs. This is particularly noticeable in rural Sindh.

The police also inflicts huge economic costs on the poor, as their movement is restricted by the police and they are usually the main target of the police' "stop and frisk" operations. These informal levies and fear of these levies curtails economic opportunities for the poor and keeps them mired in poverty.

Interestingly the courts can move expeditiously when they want to. The influential use courts as an instrument to settle scores. It is usually the influential rather than aggrieved party that initiates litigation. The judges are party to delay-sometimes to the point of violating the law.

Pakistan Participatory Poverty Assessment (PPA)⁶¹ also confirms the suffering and humiliation faced by the poor while facing institutions of justice. PPA found all over the country that in the face of crime or dispute, the institutions providing justice and security were not helpful to the poor. People were reluctant to go to the Police and judicial institutions because people did not think that they would help, even if they spent time and money.

“Gender is an important factor in dispensation of justice and is closely linked to socio-economic status. The poor and less influential women are doubly disadvantaged as they are discriminated against for being women and also for being poor.”

In some areas, poor communities were worried that criminals had become more powerful than the police. In Sindh, it was reported that dacoits were taking weapons from the police and using them for crime. In other areas of rural Sindh, analysts felt that the poor did not want to annoy those who had influence in the village. There was a chain of corruption all the way up to the top, with the police involved.

In many areas the option of formal justice institutions was simply unavailable as there are no functioning government institutions. If aggrieved, people approached the landlord who decided in all matters. Women had no access to any of the conflict resolution mechanisms. In many communities the poor turned to the jirga as the only way of resolving disputes and problems. In NWFP, for example, the jirga was seen to have a number of advantages over the police: it was aware of local realities and power dynamics; no costs were involved in the process; jirga members did not accept bribes; secrecy was maintained when necessary; there was no favouritism in the process; decisions were made quickly; and, the implementation of the decision was prompt. But some analysts also thought there were problems with the jirga system: one particular caste or clan sometimes dominated them; women, the poor and landless were not represented; and the composition of the jirgas could not be challenged. Women had no access to this forum.

Gender and Justice

Gender is an important factor in dispensation of justice and is closely linked to socio-economic status. The poor and less influential women are doubly disadvantaged as they are discriminated against for being women and also for being poor. They face violence from enemies of the family who attack them because they symbolise family's honour and they also face violence from the family members themselves. They face multiple forms of physical abuse. According to Lawyers for Human Rights and Legal Aid (LHRLA),⁶² during first eight months no less than 2,367 women faced physical abuse across the country. Of these, 940 women have been murdered. According to data prepared by HRCP, 464 women were killed under the *karo kari* practice. HRCP data also shows that in the same period 91 women were burnt and 42 faced acid attacks.

Women and girls of Pakistan suffer many forms of gender violence including such as child marriages, forced marriages and exchange of women in 'watta satta' (where siblings of one family are married off to the siblings of another family). These, among others, are not even recognised as violence by society. Other forms of gender violence within the family, although seen as criminal, are not treated as such - for example 'honour' killings and stove and acid burnings of women by family members, (in which women are killed or maimed when they are thought to have behaved

immorally or when dowries are not paid) and other physical, psychological and sexual abuses.

Women face critical access to justice problems. *Karo Kari* murders in rural Sindh and Balochistan constitute over 90 percent of criminal cases in the villages. The prevalence of "honour" crimes is likely to be quite high in the NWFP and Punjab, although a very small percentage of such crimes is actually reported. In rural Sindh and Balochistan, the discrepancy between the actual *karo-kari* related murders and their virtual absence in case files of the courts reflects the grave problem of under-reporting. In the villages, an overwhelming part of all "honour" killing related crimes and murders are not reported to the formal judicial system. In rural Sindh and Balochistan, for example, where the majority of criminal cases are linked to "honour" killing, only a negligible number of these murders are reported to the Police and courts, while most go unreported. Even the few that are reported do not result in justice for the victims, since perpetrators of these crimes secure pardon under the Qisas and Diyat Ordinance, 1984, one of the many discriminatory legislation passed by Ziaul-Haq regime⁶³.

Because informal and formal justice systems support patriarchal values and ways of life, women and children who are abused have very little chance of turning their situation around. A survey of reported court cases in Pakistan from 1947 to 1992 shows that

women use formal court procedures less frequently than men and with generally less favourable outcomes. Moreover, women who use the formal justice system may not only be wasting time and money, but may also be exposing themselves to violent vengeance in the family or community⁶⁴.

The Hudood laws imposed by the military dictator General Ziaul-Haq are wide open to misuse and abuse by the law enforcement agencies and by the courts. The sufferings inflicted on the illiterate poor and defenceless women who are charged under these laws are horrific - and they are so well documented that there is not one legislator or bureaucrat who can claim ignorance. The Offence of Zina (Enforcement of Hudood Ordinance), 1979 is probably the most brutal of the lot and the most discriminatory. It is practised not only against women, but also against non-Muslims as their individual testimony is also disallowed under the law.

The options for women and children in Pakistan to seek help are limited, as found in a DFID-funded scoping and design mission for Pakistan Government in 2001, to assist in the development of the National Strategy for Family Protection. To date, the response of the legal system and other professional bodies in dealing with this problem is to contain them within the norms of the social structure, rather than to challenge the behaviour of those perpetrating the abuse. There are also tensions in how they can be supported to challenge the sources

of their own oppression: any recourse to justice is either through the male members of their family, who may well be involved in the abuse, or through the traditional justice system, which is biased in favour of men.

Access to the formal justice system is no less filled with difficulties. Women and children who approach the police for help are quite likely to be subjected to further abuse. For instance, any woman presenting herself to police without a male 'protector' at hand is viewed as immoral. Although it is estimated that eighty per cent of women are abused, since indepen-

dence in 1947 there has not been one successful prosecution of a husband for injuring his wife.

Due to complaints of custodial abuse, the government has established special women's police stations with all female staff. The National Commission on the Status of Women has noted that the stations do not function effectively in large parts due to lack of resources. Women are still detained and interrogated at regular police stations very often. Nobody deserves justice more than a poor woman in Pakistani society, and no one is denied of justice more than her.

“Nobody deserves justice more than a poor woman in Pakistani society, and no one is denied of justice more than her.”

References

- ¹ Social Development in Pakistan: Combating Poverty: Is Growth Sufficient?, Annual Review 2004, Social Policy and Development Centre (SPDC) p.56
- ² Social Development in Pakistan: Combating Poverty: Is Growth Sufficient?, Annual Review 2004, Social Policy and Development Centre (SPDC) p.56
- ³ Huntington, Samuel P., *The Third Wave: Democratization in the Late Twentieth Century*, Norman, Okla: University of Oklahoma Press, 1991, p. 60,61, 69, 271, 316.
- ⁴ Mahmood Monshipouri; Amjad Samuel, *Development and Democracy in Pakistan: Tenuous or Plausible Nexus?* Asian Survey, Vol. 35, No. 11. (Nov., 1995), pp. 973-989.
- ⁵ Social Development in Pakistan: Combating Poverty: Is Growth Sufficient?, Annual Review 2004, Social Policy and Development Centre (SPDC) p.104
- ⁶ Zaidi, S. Akbar, *Issues in Pakistan's economy*, Oxford University Press, Karachi, 2000, p.27.
- ⁷ Iftikhar H. Malik, *Pakistan in 2000: Starting Anew or Stalemate?*, Asian Survey, Vol. 41, No. 1, *A Survey of Asia in 2000*. (Jan. - Feb., 2001), pp. 104-115.
- ⁸ Mahmood Monshipouri; Amjad Samuel, *Development and Democracy in Pakistan: Tenuous or Plausible Nexus?* Asian Survey, Vol. 35, No. 11. (Nov., 1995), pp. 973-989.
- ⁹ Shafqat, S. (1999). "Democracy in Pakistan: Value change and challenges of institution building." *Human Development in South Asia 1999: The Crisis of Governance*. Human Development Center, Karachi: Oxford University Press
- ¹⁰ ed J P Mayer (editor), *A de Tocqueville, Democracy in America, Vol I., Garden City*: Anchor Books, 1969, Part I, pp 62-84; Part II, pp 174-195, 262-311 quoted in Chand, Vikram K, *Democratisation from the Outside In: NGO and International Efforts to Promote Open Elections*, *Third World Quarterly*, 01436597, Sep97, Vol. 18, Issue 3
- ¹¹ Stephen P. Cohen, *the Idea of Pakistan*, p.12
- ¹² Aqil Shah, *Pakistan's Armored Democracy*, *Journal of Democracy*, October 2003, Volume 14, Number 4.
- ¹³ Faruqui, Ahmad, *Recidivist Militarism in Pakistan*, *Asian Affairs*, Oct2001, Vol. 32.
- ¹⁴ Allen McGrath, *The Destruction of Pakistan's Democracy*, Oxford University Press, Karachi, 1996.
- ¹⁵ Haqqani Hussain, *Common Wealth and Pakistan*, *The Nation*, May 19, 2004

- ¹⁶ Mancur Olson, *The Rise and Decline of Nations*, Yale University Press, 1982.
- ¹⁷ Faruqui, Ahmad, Recidivist Militarism in Pakistan, Asian Affairs, 03068374, Oct2001, Vol. 32, Issue
- ¹⁸ Stephen Cohen 69
- ¹⁹ Shafqat, Saeed, Political Culture of Pakistan: A Case of Disharmony Between Democratic Creed and Autocratic Reality in Contemporary Issues in Pakistan Studies, edited by Saeed Shafqat, 2000, Azad Publishers, Lahore
- ²⁰ State of Human Rights in 2004, Human Rights Commission of Pakistan
- ²¹ Freedom in the World 2004: The Annual Survey of Political Rights and Civil Liberties Rowman & Littlefield Publishers Inc., 4501 Forbes Blvd., Suite 200, Lanham, MD 20706, USA
- ²² Stephen P. Cohen, the Idea of Pakistan, p.12
- ²³ Stephen P. Cohen, the Idea of Pakistan, p.130
- ²⁴ Pakistan National and Provincial Assembly Elections, European Union Election Observation Mission.; 10 October 2002. Final Report. P. 33
- ²⁵ Pakistan National and Provincial Assembly Elections, European Union Election Observation Mission.; 10 October 2002. Final Report. P. 33
- ²⁶ Dawn Oct 12, 2002
- ²⁷ http://europa.eu.int/comm/external_relations/human_rights/eu_election_ass_observ/pakprestat.htm
- ²⁸ www.hrw.org
- ²⁹ www.ndi.org
- ³⁰ Government of Pakistan, *The Gazette of Pakistan*. Islamabad. December 31, 2003.
- ³¹ Government of Pakistan, *The Gazette of Pakistan*. Islamabad. August 21, 2002.
- ³² PILDAT. First 2 Years of the 12th National Assembly of Pakistan. (Lahore: PILDAT: 2004). P.1
- ³³ PILDAT. First 2 Years of the 12th National Assembly of Pakistan. (Lahore: PILDAT: 2004). P.1
- ³⁴ PILDAT. First 2 Years of the 12th National Assembly of Pakistan. (Lahore: PILDAT: 2004). P.3
- ³⁵ National Democratic Institute, A Guide to Political Party Development, Washington, NDI, 2001. p.3.
- ³⁶ Iftikhar H. Malik, Pakistan in 2000: Starting Anew or Stalemate?, *Asian Survey*, Vol. 41, No. 1, A Survey of Asia in 2000. (Jan. - Feb., 2001), pp. 104-115.
- ³⁷ Seyyed Vali Reza Nasr, Democracy and the Crisis of Governability in Pakistan *Asian Survey*, Vol. 32, No. 6. (Jun., 1992), pp. 521-537.
- ³⁸ Nazeer Ahmad, Political Parties in Pakistan, The Network Publications, 2004.
- ³⁹ Ibid
- ⁴⁰ Shafqat, Saeed. 1997. "Civil-Military Relations in Pakistan : From Zul-

fikar Ali Bhutto to Benazir Bhutto". Westview Press, Boulder, CO.

⁴¹ Zafarullah Khan, *Struggling for Survival: State of Political Parties in Pakistan*. Liberal Forum Pakistan 2002

⁴² Shafqat, Saeed, *Political Culture of Pakistan: A Case of Disharmony Between Democratic Creed and Autocratic Reality in Contemporary Issues in Pakistan Studies*, edited by Saeed Shafqat, 2000, Azad Publishers, Lahore

⁴³ Ibid

⁴⁴ Sommerlad, Hilary, *Some Reflections on the Relationship between Citizenship, Access to Justice, and the Reform of Legal Aid.*, 1Journal of Law & Society; Sep2004, Vol. 31 Issue 3, p345, 24p

⁴⁵ Foqia Sadiq Khan, *Of access and Dispensation*, The News, June 27, 2004

⁴⁶ Saeed Shafqat, *Political Culture of Pakistan: A Case of Disharmony Between Democratic Creed and Autocratic Reality in Contemporary Issues in Pakistan Studies*, edited by Saeed Shafqat, 2000, Azad Publishers, Lahore

⁴⁷ *An Alarming Backlog*, editorial, The Nation, December 12, 2004

⁴⁸ Raja Assad Hameed, *3,461 Case Pending with District and Session Court*, The Nation, December 12, 2004

⁴⁹ Hussain Haqqani, *Commonwealth and Pakistani Democracy*, The Nation, May 19, 2004

⁵⁰ *State of Human Rights in 2004*, Human Rights Commission of Pakistan

⁵¹ Amir Riaz, *Controversial Year for Judiciary*, The Nation, January 1, 2004

⁵² *Building Judicial Independence in Pakistan*, International Crisis Group, Asia Report N°86 Islamabad/Brussels, 10 November 2004.

⁵³ *Delayed justice upsets National Accountability Bureau*, Ansar Abbasi, The News April 14, 2004

⁵⁴ *State of Human Rights in 2004*, Human Rights Commission of Pakistan (HRCP)

⁵⁵ *Public Grievance Redress Laws, Procedures and Mechanisms in Pakistan*, The Network for Consumer Protection, 2005-08-15

⁵⁶ Mubashir Hassan, *Police Order in Jeopardy*, The Nation, February 13, 2004

⁵⁷ *Changes in police order to politicize system*, Dawn, 13 January, 2005

⁵⁸ Stephen Browne, "Governance and Human Poverty," *Choices* (September 2002), at www.undp.org/dpa/choices/2001/september/essay.pdf.

⁵⁹ *Beyond Rule of Law Orthodoxy, The Legal Empowerment Alternative*, Number_41_October_2003/2000a40bv01.html #p2000a40b8940043004 <http://www.ceip.org/files/publications/HTML-Briefs->

⁶⁰ Foqia Sadiq Khan, *Justice Denied: Access to Justice in Pakistan*, The Network, 2004

⁶¹ *Between Hope and Despair, Pakistan Participatory Poverty Assess-*

ment, National Report, Planning Commission, Government of Pakistan. P.128-129

⁶² State of Human Rights in 2004, Human Rights Commission of Pakistan (HRCP)

⁶³ Foqia Sadiq Khan, Justice Denied: Access to Justice in Pakistan, The Network, 2004

⁶⁴ <http://www.id21.org/insights/insights43/insights-iss43-art02.html> , downloaded on April 4, 2005.



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“ What is the relationship between poverty and democracy? How are some sections of society marginalised and excluded from political processes? What is the general situation of democratic institutions in Pakistan and how representative these institutions are? What is the overall situation of institutions of justice in the country and how do these institutions treat common citizens, particularly the poor? These are some of the questions this report tries to explore. ”

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